

Wildland Fire Management, GS-0456

Fair Labor Standards Act (FLSA) Frequently Asked Questions (FAQs)
Department of the Interior – Office of Human Capital (OHC)

Introduction

Below are Frequently Asked Questions (FAQs) regarding Fair Labor Standards Act (FLSA) determinations within the GS-0456 Wildland Fire Management occupational series. These FAQs are issued to offer clarity and address inquiries commonly received from the Wildland Fire Management Community.

It's important to note that many of the questions addressed here are quite specific and individualized. Therefore, employees are encouraged to first consult with their supervisory official and/or servicing human resource office for personalized guidance. What may be correct for one employee might not necessarily apply to another, given the unique circumstances of each situation. These FAQs serve as a general reference point and starting place for understanding FLSA determinations within the GS-0456 series, but individualized guidance should always be sought when necessary.

Frequently Asked Questions

1. If a position was previously a GS-0462-08, Wildland Firefighter (Engine Captain), code 4 non-exempt supervisor, and this role is classified in the new series as a GS-0456-08, Wildland Firefighter (Engine Captain), code 2 exempt supervisor, will my FLSA exemption status change?

Answer: The SPDs that were developed in the GS-0456 series for the role described (first-level supervisory GS-08 and GS-09 operations) will be FLSA nonexempt, regardless if the SPD is code 2 (Supervisory) or code 4 (Supervisory-CSRA).

2. Which DOI Standardized Position Description (SPD), classified as code 2 supervisory positions would be non-exempt?

Answer: The DOI SPDs established for first-level Supervisory Wildland Firefighter, GS-0456, at the GS-08 and GS-09 grades which primarily perform fire suppression duties and devote approximately 25% of their work to supervisory duties are FLSA non-exempt and therefore do not meet the criteria to be exempt from the minimum wage and overtime provisions of the FLSA executive exemption, 29 U.S.C. Section 213(a)(1) and 5 C.F.R. § 551.202(d).

3. How will I know what FLSA status that I am agreeing to?

Answer: The HC-08 cover sheet of all DOI Standardized Position Descriptions (SPDs) has been annotated with the final FLSA determination.

All officially established DOI SPDs describe major duties assigned by Bureau Office of Wildland Fire Senior Management Officials to be performed by employees assigned. The FLSA determination of each SPD was derived based on an analysis and review of major duties by HR Classification Specialists.

Assignment of SPDs will vary based on service location, organizational setting, and employee duty assignments. What may be an appropriate position assignment for one employee may not be an appropriate fit for another employee. Therefore, employees should first consult with their supervisor

and/or servicing human resources office on assigned SPD of record. Each SPD cover sheet (HC-08) has been annotated with the final FLSA determination for official record.

4. *What is exempt vs non-exempt?*

Answer: Exempt employees usually hold administrative, professional, or executive positions. They're "exempt" from the Fair Labor Standards Act's (FLSA) overtime regulations and, therefore, not entitled to unrestricted overtime pay. Nonexempt employees are typically paid hourly and perform more manual or technical duties.

5. *On what basis have we classified operational positions as exempt?*

Answer: Exempt versus nonexempt was determined based upon the primary duties of the position description. Primary duties are defined as the principle, main, major, or most important duty that the employee performs. Determination of the primary duties must be based on all the facts in a particular position with the major emphasis on the character of the employee's job as a whole. Factors considered when determining the primary duty include the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee's relative freedom from direct supervision; and the relationship between the employee's salary and the wage paid to other employees for the kind of nonexempt work performed by the employee.

6. *Where can I find out what my exempt status will be in my new position?*

Answer: Employees need to consult with their supervisory official and/or their servicing human resources office.

7. *What impact does this have on bi-weekly OT caps?*

Answer: Overtime pay earned for FLSA non-exempt (covered) employees under (i.e., 29 U.S.C. 207 and 5 CFR Part 551) is excluded from the biweekly premium pay cap at 5 U.S.C. 5547 and 5 CFR 550.105 because it is paid under FLSA rather than Title 5. All overtime earned while performing wildland fire Suppression actions is also exempted from the biweekly pay cap.

8. *Is it possible we will make less money in the 0456 series due to being in an exempt position?*

Answer: Employees need to first consult with their supervisory official and/or their servicing human resources office to determine the status of their position. Overtime will be calculated based upon the employee's specific status.

9. *Were any positions that were previously non-exempt made exempt? If so, why?*

Answer: 5 USC, Chapter 71, Section 7106(a)(2)(B) states that management has the right to assign work and to determine the personnel by which agency operations shall be conducted; as a result, there may be incidents where implementing OPM's new classification standard may result in a different FLSA determination, based on major duties assigned and perform my the position. Therefore, our recommendation is that employees collaborate with their servicing Bureau Human Resources Office and/or supervisory official for position assignment and FLSA determination.

With the new job series, it is possible that the exemption status could change between the legacy position and the new position; it is important that employees know the FLSA exemption status prior to deciding to opt in or not.

10. I am currently a GS-0401-9 Exempt Supervisor. If I do not elect-in to the new 0456 series, will I be automatically changed to Non-Exempt?

Answer: No, if your position or supervisory status does not change, your FLSA status is likely static. It is recommended that employees collaborate initially with their individual supervisor with inquiries concerning future mission goals and impact on assigned duties and work requirements if moving into the new GS-0456 Wildland Fire Management series from the GS-0401 series. If you do not elect into the series, there will be no change to your PD.